
Responses to Watershed Center Letters re Timber Shores & Wetlands

1 message

Walter Johnson <wjohnson@vogeladvisors.com>

Thu, Oct 21, 2021 at 1:41 PM

To: Steve Patmore <ltzone@leelanautwp.org>, Steve Patmore <leelanautownshipzoning@gmail.com>, Steve Kalchik <sjkalchik@gmail.com>

Mr. Patmore: Attached please find a letter addressed to Heather Smith of The Watershed Center in response to the several letters she has addressed to you and the LTPC regarding Timber Shores.

We would appreciate having this letter placed in the public record for tonight's meeting. More importantly, we ask that you, Nathan Mehmed and the LTPC members all read these responses from Charles Wolverton, which give a great amount of professional perspective on the waterfront and wetland topics raised by Ms Smith and discussed by the LTPC.

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Best Regards,

Walter G. Johnson
Director - Financial Services



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 **Smith Response ltr.10.20.21.pdf**
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Wolverton Consulting, LLC

14802 Butwell Road
Bear Lake, MI 49614

October 20, 2021

Ms. Heather Smith
The Watershed Center
13170 S. West Bay Shore Drive
Traverse City, MI 49684

Re: Response to your August 26, 2020 and October 7, 2021 Letters to the Leelanau Township Planning Commission for the Proposed Timber Shores Project.

Dear Ms. Smith,

Now that the Project Team for the proposed Timber Shores Family RV Camping & Beach Resort ("the Project") has finalized the site plan and the Application for Permit ("AFP") has been submitted to the Michigan Department of Environment, Great Lakes, and Energy ("EGLE"), we believe it is now the appropriate time to provide our response to your August 26, 2020 and October 7, 2021 letters to the Leelanau Township Planning Commission ("LTPC" wherein you provide comments on behalf of The Watershed Center in regard to the proposed Project and input regarding water's edge setbacks and wetland protections. We trust that you will give full consideration to our responses, which we believe will alleviate all/most of the concerns about the Project expressed in your letters or at least provide some clarification of the statements you make in these letters.

For the sake of clarity and completeness of our response, I will provide pertinent quotes from your letters followed by our input based upon the final site plan. Of course we realize the "final site plan" is subject to potential revisions required/requested by the various permitting agencies, such as the LTPC, EGLE, and the Leelanau County Drain Commissioner.

In your August 26, 2020 letter you state, "I advocate for sustainable development solutions that preserve our wetlands, shorelines, streams, and aquatic habitats."

Response:

I assure you, as the member of the Project Team charged with responsibility for avoiding and minimizing impacts to natural resources, you and I advocate the same goals. The recommendations that I have made throughout the extended site planning period to avoid and minimize natural resources impacts have been implemented. Details are provided in the following responses.

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Wetland Impacts:

You state in your August 26, 2020 letter, “While we are pleased that wetland impacts appear to have been reduced since the 2019 conceptual plans, the current set of plans intends to fill 1.27 acres of wetlands, further fragmenting these important ecosystems.”

Response:

If you were pleased that the proposed wetland impacts at the time of your letter in August 2020 were reduced to 1.27 acres compared to the 2019 conceptual plan, I am sure that you will be very pleased that the final site plan has further reduced the wetland impacts to only 0.53-acre. In order for the wetland impacts to be reduced to this extent, some major revisions were made to the site plan, primarily moving the proposed recreation pond to the west thereby avoiding - 0.26-acre of wetland impact. The day-use parking lot was relocated west of the excavated ditch/stream, which will result in some operational changes; e.g. a shuttle service will be needed to transport guests from the parking lot to the main lodge for registration for recreational activities.

Your characterization of the proposed wetland fills as “fragmenting these important ecosystems” does not accurately describe the majority of the proposed wetland impacts in the final site plan. The term “fragmenting” means to divide or break into fragments but most of the proposed wetland impacts are at the edges of the wetlands and do not “fragment” the wetlands. None of the proposed roads bisect wetlands but curves and intersections necessitate impacting the edges of wetlands to provide the proper road horizontal alignment. The 47 separate wetland impact areas average only about .01-acre each. It is also important to note that the Project will not impact wetlands for campsites, buildings, or parking lots, which conforms to your recommendation.

The proposed wetland mitigation plan will restore wetlands previously filled in seven locations and will reduce fragmentation of these wetlands, restoring larger wetland habitats which is ecologically important. The wetland mitigation plan submitted with the AFP to EGLE proposes the restoration of 2.23 acres of wetlands that were filled for the construction of the original Timber Shores Resort in the 1960s. Thus, a *net gain* of 1.7 acres of wetland will result from the Project. The old fill will be removed down to the grade of the adjacent wetland and a native wetland seed mix will be applied. Restoration of wetlands in this manner has a very high success rate; creation of wetlands from uplands is much more difficult and does not enjoy the success rate of restored wetlands.

You further state in your August 26, 2020 letter, “Wetlands provide several community benefits, including flood attenuation, water filtration, groundwater recharge, shoreline stabilization, carbon sequestration, fish and wildlife habitat, and represent one of the most biologically diverse ecosystems.”

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Response:

The ecological attributes that you describe in your letter as shown in the quote above can indeed be attributed to wetlands generally, but it is important to understand that not all wetlands exhibit all of these ecological attributes. For one thing, a wetland must have the *opportunity* to exhibit a function in order for it to be an ecological attribute of that wetland. For example if the wetland does not receive flood waters or is not located on a shoreline then the wetland cannot be characterized as exhibiting flood attenuation or shoreline stabilization. As such, the wetlands on the Timber Shores Project do not all have the same ecological attributes or may not each provide benefits at the same level of importance to the ecosystem. Thus one must be careful not to use a broad brush when assessing wetland functions.

Stream Impacts

Your August 26, 2020 letter states, “The site contains two tributaries of Ennis Creek, a high quality cold water fishery.

Response:

There are no tributaries to Ennis Creek, only the main stem of the creek. The “tributary” that you are apparently alluding to is the excavated ditch/stream that is located along the east side of the former railroad grade and then curves to the east to its confluence with Grand Traverse Bay along the south property line of the Project. This stream does not connect to Ennis Creek and was obviously excavated in past history either for the railroad or the original Timber Shores construction. This stream has a very slow or non-existent flow and is warm water. Ennis Creek is a cold water stream and brook trout have been surveyed in the stream in past stream survey investigations.

You further state, **“Riparian vegetation shades nearshore waters, stabilizes banks and shorelines, filters water, and provides fish and wildlife habitat. The removal of riparian vegetation and replacement of pervious forested grounds with impervious surfaces will have a significant, adverse effect on Ennis Creek.”**

Response:

Your description of the functions of riparian vegetation is accurate and is the primary reason that the owner of the Project granted the Conservation Easement along the reach of Ennis Creek on its property. The 100-foot wide easement protects the riparian corridor from human-induced perturbations that may impact Ennis Creek. However, your statement concerning removal of riparian vegetation and installation of impervious surfaces is without basis in fact and is pure speculation. First of all, riparian vegetation adjacent to Ennis Creek will not be impacted by the Project because it is protected by the Conservation Easement. Secondly, predicting that there will be “significant, adverse effect on Ennis Creek” attributed to the Project has no scientific basis; you have no data or reasonable evidence for this statement. Common sense and basic hydrologic conditions indicate that the high groundwater table within much of the Project provides stable base flow to Ennis Creek and would not be influenced by the Project. Further please note that the 53-acre Conservation Easement granted by NM Investment Company LLC

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in 2006 on the west side of M-22 contains the critical headwaters of Ennis Creek and provides much of its base flow from groundwater springs.

Shoreline and Nearshore Impacts:

In this section of your August 26, 2020 letter you state, **“We have substantial concerns with plans to convert the vegetated, natural Lake Michigan shoreline with a large, artificial sandy beach area. The removal of this natural vegetation significant adversely impacts the nearshore waters so critical for juvenile fish and other wildlife.”**

Response:

The shoreline along Grand Traverse Bay is dynamic, constantly changing in relation to the annual and long-term fluctuations of water levels in addition to periodic storm or ice damage. The beach at Timber Shores is no different. The area along the water's edge at Timber Shores is generally sand and the high beach has scattered herbaceous and woody vegetation that has colonized since the original Timber Shores Resort ceased operations. A sandy beach on the Great Lakes is in no way to be characterized as “artificial” as you state.

The second sentence in this part of your letter where you say, “The removal of this natural vegetation significant adversely impacts the nearshore waters so critical for juvenile fish and other wildlife” is obviously biased and not supported by any reasonable scientific basis. Keep in mind that the waters of the Bay influence the land/water interface which is generally characterized by beach sand. This shoreline zone will not change with the implementation of the proposed Project, but the high beach will have vegetation removed to provide beachfront recreation.

It is important to note that the maintained beach will be 1.2 acres in size with 526 feet of beach along the water's edge. Thus, the 526 feet of beach along the water only constitutes 31% of the total 1,724 feet of frontage. If you are going to stand by your statement that “removal of this natural vegetation significant adversely impacts the nearshore waters” we request that you provide an explanation of how the “significant adversely impacts” will be manifested because I cannot comprehend how you can justify this statement. Your use of the word “significant” as it is defined in Merriam-Webster dictionary indicates that the beach restoration is “having or likely to have a major effect; important.” Will sand wash or blow from the high beach into the water and cause deleterious impacts to fish and wildlife? Isn't movement of sand in the water either by littoral drift currents and/or wave action a natural phenomenon? Secondly, what data do you have regarding the presence of juvenile fish in the nearshore area at the Project site?

You further state in your paragraph titled Shoreline and Nearshore Impacts, **“impervious marina and boat launch facilities further threaten water quality and aquatic habitat as they create stormwater issues and remove riparian vegetation and their associated ecosystem services.”**

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Response:

The project does not propose any “impervious marina and boat launch facilities” so your statement that such facilities have the impacts that you predict is of no importance.

In regard to your **October 7, 2021** letter to Steve Patmore, I have several comments that I would like to share.

Water’s Edge Setbacks

In this section of your October 7, 2021 letter you state, **“The land-water interface, also referred to as the riparian zone, is one of the most ecologically diverse and productive habitats on earth.”**

Response:

I don’t disagree that the “riparian zone” is ecologically valuable, but your characterization of the riparian zone as “one of the most ecologically diverse and productive habitats on earth” is at best a generalization and is a statement that would not be supported by most ecologists. Wetlands are known to be some of the most diverse and productive habitats on earth, but not all wetlands are, as I explained previously in this letter. Likewise not all “riparian zones” have the same ecological benefits and characteristics. I believe that the riparian zone in the area where the beach restoration is proposed for the Project is not as ecologically important as the waterfront being preserved on the north portion of the Timber Shores property. Over-generalization of the functions and values of ecological areas is not good science.

In this section of your October 7, 2021 letter you also state, **“Water’s edge setbacks prevent structures and hardened surfaces from being built too close to the water.”**

Response:

The Timber Shores property has a dynamic and changing shoreline depending on Great Lakes water levels and storm events. However the recession/accretion of the beach front has not resulted in a long-term recession of the shoreline on this property. Based on this fact a large waterfront setback is not necessary for this property. Apparently the Planning Commission is considering changes to zoning only for the Commercial Resort zoned areas and as such a reasonable setback would seem to be adequate and in line with the other township/municipality zoning that you provide in your letter, that being in the range of 30-50 feet.

The proposed Project will have permanent structures well set back from the shoreline. Please note that the Project will only have 31% of its frontage in maintained beach; nearly 70% of the 1,724 feet of frontage will be left in its natural condition.

Wetland Protections

Your statements in this section of your October 7, 2021 letter regarding the effectiveness of Part 303 (Wetland Protection) administered by EGLE seem to indicate that EGLE has

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allowed **“nearly 50% of pre-development wetlands have disappeared in the Grand Traverse Bay watershed”** and that **“townships are stepping up to fill this gap in wetland protection.”** Having personally been involved in the implementation of the Wetland Protection Act in 1979 statewide when I was with the MDNR and during my 47 years of experience in working on wetland-related projects with both the public and private sector, I can assure you that the State of Michigan is a national leader in protecting its wetland resources. A large majority of the wetlands losses that you reference occurred prior to wetland protection being enacted and, in fact, was the reason that the Wetland Protection Act was passed in 1979.

EGLE does a very good job of administering the wetland regulations and townships do not need to step up to fill any gap in protecting wetlands. State law does not require any wetland setbacks and very few municipalities, especially those in the northern portions of Michigan, do not have wetland setbacks in their zoning ordinances.

The Timber Shores project will provide a level of protection to wetlands, streams, the shoreline zone, and other natural resources that is not likely to be provided in any other development of this property. The wetlands within which the wetland restorations are proposed for the mitigation component of the application that has been submitted to EGLE will be placed in Conservation Easements, thereby protecting these restored larger wetlands in perpetuity.

It is naïve to believe that this property will remain undeveloped forever; some form of development will take place. The Timber Shores Project is the best use of this property and will be a long-term benefit to Leelanau County and a prime example of development that is sensitive to natural resources.

Conclusion:

We hope that the exchange of updated information and responses to your comments in the letters to the LTPC is helpful to you and The Watershed Center in providing pertinent and factually based comments to the LTPC and EGLE during the review of this Project. The evolution of the Project plans since the date of your August 26, 2020 letter to the LTPC was done with the intent of meeting the requirements of the Leelanau Township Zoning Ordinance, State statutes administered by EGLE, and in response to input from the public and organizations like The Watershed Center.

If you would like to meet with representatives of the Project and have detailed discussions and review the project plans, please contact me and we will arrange to meet at your convenience. We feel that such an information exchange will help keep the review of the Project objective and based on pertinent facts.

Thank you.

Heather Smith
October 20, 2021

Sincerely,

Charles L. Wolverton
Wolverton Consulting, LLC

CC: Walter Johnson